

FILED/ACCEPTED

NOV 25 2008

Federal Communications Commission  
Office of the Secretary

06-122

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

FILED/ACCEPTED

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Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
Federal-State Joint Board )  
On Universal Service )  
 )  
Ambess Enterprises, Inc. ) CC Docket No. 96-45  
Form 499 Filer ID 821772 )  
Request for Review of USAC Rejection Letter )  
and Request for Waiver of 45-Day Correction )  
Deadline )  
\_\_\_\_\_ )

**EMERGENCY REQUEST FOR REVIEW AND  
REQUEST FOR WAIVER OF USAC 45-DAY REVISION DEADLINE**

Ambess Enterprises, Inc. ("Ambess"), by its undersigned counsel and pursuant to sections 54.722(a) and 1.3 of the Communication's rules, 47 C.F.R. §§ 54.722, 1.3, respectfully requests that the Commission reverse a recent decision by the Universal Service Administrative Company ("USAC") to reject a correction to Ambess' FCC Form 499-Q Telecommunications Reporting Worksheet ("FCC Form 499-Q" or "Form 499-Q"), and to require USAC to base all further calculations of Ambess' Universal Service ("USF") contributions on the correct revenue data. The Commission has found that a request of this nature is essentially a request for waiver of the 45-day revision deadline for FCC Form 499-Q filings.<sup>1</sup> Ambess respectfully requests that the Commission take such action on an expedited basis so that the next USF invoice to Ambess is an accurate reflection of Ambess' required USF contribution.

<sup>1</sup> See *In the Matter of Federal-State Joint Board on Universal Service, Universal Service Contribution Methodology, Adventure Communications Technology, LLC, Form 499 Filer ID: 825749 Request for Review of USAC Rejection Letter and Request for Waiver of USAC 45 Day-Revision Deadline*, CC Docket No. 96-45, WC Docket No. 06-122, DA 08-1514, ¶ 4 n.10 (rel. Jun. 26, 2008) ("Adventure Order").

No. of Copies rec'd 0  
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As detailed herein, there is good cause to provide Ambess' requested relief. Waiver of the 45-day revision deadline would serve the public interest, would not adversely affect the USF, reduce the level of the Fund, or prejudice any party. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>2</sup> In addition, "the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis."<sup>3</sup> As demonstrated herein, all of these considerations exist to compel a grant of Ambess' requested relief.

## **I. BACKGROUND**

Ambess is a small, privately-held company based in Altoona, Pennsylvania. The company was created by its founder, Pamela S. Nelson, as a means to provide affordable telecommunications services to thousands of customers in rural Pennsylvania. Customers in rural Pennsylvania faced high rates from Ambess' competitors and, in many cases, telecommunications services in these areas were sub-standard, or altogether unavailable. Ms. Nelson's objective in founding Ambess was to offer these customers an alternative to the high rates charged by the incumbents. By placing prepaid vending machines in several, small retail outlets throughout rural Pennsylvania, Ambess has been able to provide affordable telecommunications services to thousands of rural customers who otherwise would not have been able to afford telephone service.

From its inception, Ambess has been known as a highly-efficient company that excels in customer service. Ambess has, indeed, been rewarded for its efforts. Today, the company is a Master Reseller of prepaid telecommunications products and services, servicing hundreds of retail locations throughout the Mid-Atlantic.

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

## II. A MISTAKEN BELIEF AS TO 499-Q FILING REQUIREMENTS CAUSED AMBESS TO FILE AN FCC FORM 499-Q WHEN NO SUCH FILING WAS REQUIRED

Ambess registered as an FCC 499 Filer in 2002, and filed its first FCC Form 499-A that same year. In its 2002 Form 499-A, and in each subsequent 499-A filing, Ambess has been exempt from direct payments to the USF because the company qualifies for *de minimis* status.<sup>4</sup> As a *de minimis* company, Ambess has also been exempt from filing quarterly FCC Form 499-Q filings.<sup>5</sup>

Although the company was exempt from quarterly Form 499-Q filings, it mistakenly submitted an FCC Form 499-Q on February 1, 2008,<sup>6</sup> in reaction to a letter it received from its underlying carrier regarding the "Carrier's Carrier Rule."<sup>7</sup> The underlying carrier's letter was misinterpreted, leading management to conclude incorrectly that Ambess' reporting obligations to USAC had changed. Ambess has since learned that, in fact, it was not required to file a Form 499-Q on February 1, 2008, because the company was and remains a *de minimis* contributor with no direct USF contribution obligations based on its annual interstate telecommunications revenue.

Ambess respectfully requests the FCC to direct USAC to disregard its erroneously-filed February 1 Form 499-Q. Ambess further requests that the FCC direct USAC to reverse any fees or late charges based on the erroneously-filed FCC Form 499-Q. The form should not have been filed in the first instance, and Ambess respectfully requests that the FCC direct USAC to disregard this

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<sup>4</sup> Section 54.708 of the Commission's rules provides that telecommunications carriers and telecommunications providers are not required to contribute to the universal service support mechanisms for a given year if their contribution for that year is less than \$10,000. 47 C.F.R. § 54.708. In addition, *de minimis* carriers are not required to submit quarterly FCC Form 499-Q.

<sup>5</sup> *Id.*

<sup>6</sup> See Telecommunications Reporting Worksheet, FCC Form 499-Q (2008), original filing, submitted Feb. 1, 2008, on behalf of Ambess Enterprises, Inc. ("Original Feb. 1, 2008 FCC Form 499-Q"), attached hereto as Attachment A.

<sup>7</sup> See 47 C.F.R. § 706(b). The "carrier's carrier rule" is intended to prevent double payment at the wholesale and retail level by basing USF contributions only on "end-user telecommunications revenues."

filing, and to reverse any USF assessments, fees, charges, or late payment penalties associated therewith.

**III. AN INADVERTENT ERROR BY AMBESS RESULTED IN A GROSS OVERSTATEMENT OF ITS PROJECTED REVENUE FOR THE SECOND QUARTER OF 2008**

Alternatively, Ambess requests that the FCC direct USAC to accept Ambess' late-filed FCC Form 499-Q.

On Line 120 of the FCC Form 499-Q filed February 1, 2008, Ambess significantly over-projected its revenue for the second quarter of 2008.<sup>8</sup> Instead of providing projections for the second quarter of 2008, Ambess provided projections for the entire year. Thus, on Line 120(b) of its original FCC Form 499-Q, Ambess' projected interstate revenue was reported as \$51,000, and on Line 120(c) its international revenue was reported as \$374,000.<sup>9</sup> These projections were not for the second quarter. Rather, the projected revenue reported in the February 1, 2008 FCC Form 499-Q represents Ambess' expected, collected interstate and international revenue for the entire year.

Ambess learned of its reporting error on March 24, 2008,<sup>10</sup> upon reading an email dated February 18, 2008, from USAC.<sup>11</sup> In a March 25, 2008 email, Ms. Nelson explained she was not able to discover the email prior to this time as she had been out of the office suffering with pneumonia.<sup>12</sup> As soon as Ms. Nelson discovered the reporting error, she attempted to submit a revised FCC Form 499-Q.<sup>13</sup> However, by the time Ms. Nelson had recuperated from her illness,

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<sup>8</sup> See Original Feb. 1 FCC Form 499-Q, Line 120.

<sup>9</sup> *Id.*

<sup>10</sup> See Email from USAC to Pamela S. Nelson, Ambess (sent Feb. 18, 2008, 4:09 pm); Email from Pamela S. Nelson, Ambess, to USAC (sent Mar. 24, 2008, 5:54 pm); Email from Pamela S. Nelson, Ambess, to USAC (sent Mar. 25, 2008, 7:19 pm), attached hereto as Attachment B (collectively referred to as "Ambess-USAC Email Thread").

<sup>11</sup> See Ambess-USAC Email Thread at pp. 3-4.

<sup>12</sup> See Ambess-USAC Email Thread at pp. 2-3.

<sup>13</sup> See FCC Form 499-Q Telecommunications Reporting Worksheet, revised filing, submitted Mar. 26, 2008, on behalf of Ambess Enterprises, Inc. ("Revised Feb. 1, 2008 FCC Form 499-Q"), attached hereto as Attachment C.

read the USAC e-mail and submitted the revised Form 499-Q on March 26, 2008, the 45-day revision deadline had already expired. As the revised filing demonstrates, Ambess' projected revenue for the second quarter of 2008 was \$11,811.60 interstate revenue, and \$86,618.40 international revenue.<sup>14</sup> Not \$51,000 interstate revenue and \$374,000 international revenue as erroneously reported in the original February 2008 499-Q filing.

Significantly, Ambess never received a written reply from USAC stating that its revised February 2008 Form 499-Q had been rejected. Based on USAC's lack of response, Ambess reasonably believed that the matter was under consideration by the USAC legal department. In early May 2008, however, after contacting the USAC legal department to obtain an update on the status of its revised 499-Q, Ambess became aware through verbal discussions with the USAC legal department that its revised FCC Form 499-Q was not accepted. Immediately thereafter, on May 14, 2008, Ambess filed an appeal to USAC requesting that its decision to reject Ambess' revised February 1 499-Q filing be reversed.<sup>15</sup>

Notably, Ambess did not receive any written notice from USAC regarding the status of its appeal until October 23, 2008 – over five months after Ambess' appeal was filed. On that day, Ambess received an email from USAC stating that its appeal had been denied.<sup>16</sup> The letter attached to the email further explained that if Ambess wished to further appeal this decision, then it should file an appeal at the FCC.<sup>17</sup>

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<sup>14</sup> See Revised Feb. 1 FCC Form 499-Q.

<sup>15</sup> See Letter from Pamela S. Nelson, President, Ambess Enterprises, Inc., to Reviewing Official, USAC (dated May 14, 2008) ("Ambess Appeal Letter"), Attachment D.

<sup>16</sup> See Letter from USAC, to Pamela S. Nelson, President, Ambess Enterprises, Inc. (dated October 23, 2008) ("USAC Decision Letter"), attached hereto as Attachment E.

<sup>17</sup> *Id.* at 4.

USAC's five-month delay in responding to Ambess caused the company significant financial harm. During the pendency of the USAC appeal, debt collection activities were initiated against Ambess,<sup>18</sup> and late fees continued to accrue. Ambess' most current USAC invoice indicates an outstanding balance of \$63,353.64.<sup>19</sup> Ambess believes that USAC's delayed action on its appeal is inexcusable – especially considering that Ambess was not able to file an appeal with the FCC until after it had exhausted all remedies available through USAC. And, as previously noted, Ambess did not learn the outcome of its appeal to USAC until October 23, 2008 – five months after Ambess' appeal was filed.

#### **IV. GOOD CAUSE EXISTS TO REVERSE USAC'S REJECTION LETTER**

As discussed below, good cause exists to grant Ambess the relief it seeks, and such relief would greatly serve the public interest.

##### ***A. USAC's Refusal to Allow Ambess to Correct its Over-Reported Revenue Imposes Significant Financial and Competitive Harm to the Carrier***

##### ***1. USAC's Decision Requires Ambess to Make Duplicative USF Contributions***

As a *de minimis* provider since 2002, Ambess was not previously required to file quarterly FCC Form 499-Q worksheets. Yet, based on its belief that a worksheet was required in February 2008, Ambess made a diligent and reasonable effort to comply with its quarterly FCC Form 499-Q reporting obligations. Despite its reasonable efforts, Ambess mistakenly believed that Lines 119 and 120 of the FCC Form 499-Q requested information for the entire year. Based on the projected interstate and international revenue reported on Line 120 of its February 2008 FCC Form 499-Q,

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<sup>18</sup> See Letter from USAC to Pamela S. Nelson, Ambess (Nov. 5, 2008), attached hereto as Attachment F.

<sup>19</sup> See USAC Statement of Account (Oct. 22, 2008), attached hereto as Attachment G.

Ambess did not qualify for the Limited International Revenue Exemption (“LIRE”),<sup>20</sup> and subsequently did not qualify for *de minimis* status. As a result of this unfortunate reporting error, Ambess’ direct USF contribution requirement increased from \$0 to nearly \$15,000 per quarter, or approximately \$60,000 annually. As Ambess’ revised 499-Q demonstrates, however, the company, in fact, qualifies for *de minimis* status on the basis of its interstate revenues. Therefore, pursuant to FCC rules, Ambess’ direct USF contribution obligation should, in fact, be \$0.

In addition, as a result of USAC’s refusal to accept Ambess’ revised 499-Q, Ambess is now obligated make USF payments to both USAC and its wholesale supplier. As a *de minimis* provider, Ambess does not contribute directly to the universal service fund. However, Ambess indeed contributes indirectly to the fund through regular and consistent USF payments to its wholesale supplier. Thus, USAC’s refusal to allow Ambess to correct its erroneously-filed February 1, 2008 499-Q places Ambess in a difficult position of being obligated to pay USF fees both to USAC and its wholesale supplier.

The DC Circuit rejected such a result in the *Vonage Order*.<sup>21</sup> In that case, the FCC’s decision to suspend the carrier’s carrier rule with respect to interconnected VoIP providers would have required such providers to make duplicative USF contributions for two quarters: once directly on their own interstate and international revenues and a second time indirectly in the form of higher costs passed along from their wholesale suppliers. The court rejected such a result, finding the FCC’s argument that invocation of the carrier’s carrier rule would result in a net decrease in USF revenues to be unpersuasive and unsupported. Accordingly, the court vacated this portion of the order.

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<sup>20</sup> See 47 C.F.R. § 706(c) (providing that entities whose projected collected interstate end-user telecommunications revenues comprise less than 12 percent of its combined projected collected interstate and international end-user telecommunications revenues shall contribute based only on such entity’s projected collected interstate end-user telecommunications revenues).

<sup>21</sup> See *Vonage Holdings Corporation v. FCC*, No. 06-1276 (DC Circuit Jun 1, 2007) (“*Vonage*”).

Similar to the result reached by the court in *Aventure*, the Commission should reverse USAC's decision, or alternatively, waive the 45-day revision rule to permit Ambess to file a revised Feb. 1 FCC Form 499-Q . In the absence of a reversal or waiver of the rule, Ambess would be required to make duplicative USF contributions -- a result the court in *Aventure* found to be unacceptable. In addition, permitting Ambess to file a revised FCC Form 499-Q would not result in a net decrease in fund revenues.

## ***2. The Annual True-Up Process is Insufficient to Remedy the Harm Caused to Ambess***

Pursuant to FCC rules, the method to correct the February 1 499-Q after the 45-day revision window is through the annual 499-A "true-up" process.<sup>22</sup> In addition, under USAC's "pay and dispute" policy, Ambess would be required to pay the entire \$63,353.64 balance now, and wait until the true-up process to receive any credit or refund of amounts paid.<sup>23</sup>

However, as a small company facing extremely tough economic times, paying \$63,353.64 now, and waiting until mid-year 2009 to receive a credit or refund would pose excessive harm to the company.<sup>24</sup> Ambess still makes regular and consistent USF payments to its wholesale supplier. Thus, if Ambess also pays its USAC invoice, the company would be making duplicative payments to the USF. These excessive payments would deprive the company of the capital and cash-flow it

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<sup>22</sup> See USAC Website, Fund Administration, Contributors, Who Must Contribute, Annual True-Up, available at <http://www.usac.org/fund-administration/contributors/who-must-contribute/annual-true-up.aspx> (last visited Nov. 13, 2008).

<sup>23</sup> USAC's "pay and dispute" policy requires contributors to pay disputed invoices. In addition, USAC imposes late payment fees on invoices that are not paid in full, and these fees will not be waived unless the disputed changes are later found to be a result of an error by USAC. See USAC Website, Fund Administration, Contributors, File an Appeal, available at <http://www.usac.org/fund-administration/contributors/file-appeal/> (last viewed Nov. 13, 2008).

<sup>24</sup> The Commission has, on multiple occasions, waived the 45-day revision period where a filer faced undue economic hardship if the waiver was denied. See *Aventure Order*, *supra* note 1; see also *In the Matter of Universal Service Contribution Methodology, Requests for Review of the Universal Service Administrator by Curry IP Solutions, et al.*, WC Docket No. 06-122, DA 08-2242, (rel. Oct. 7, 2008), n.18 (noting that "the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis."); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).



desperately needs in order to maintain and operate its business, and to remain competitive in a highly-competitive industry.

***B. Granting Ambess Requested Relief Will Not Adversely Affect the Universal Service Fund, Will Otherwise Serve the Public Interest, and Will Not Prejudice Any Party***

Ambess has complied with all of its USF payment obligations through regular and consistent payments to its wholesale supplier. Therefore, allowing Ambess to correct an erroneously-filed FCC Form 499-Q will not reduce Ambess' USF payment obligations in any manner, would not otherwise adversely affect the Universal Service Fund, and would not prejudice any party. Ambess has paid, and will continue to pay, all of its USF contribution obligations in a timely manner to its wholesale supplier. Ambess is not seeking to alter, reduce or modify its existing USF payment obligations. Rather, the company is simply asking to be allowed to correct an obvious error in revenue reporting, so that its USF payments are based on actual, as opposed to grossly overstated, telecommunications revenue.

The public interest will be served by granting Ambess' request. Ambess is a small company primarily serving the needs of rural customers in the Mid-Atlantic. Granting the company's request to file a revised Form 499-Q will allow the company to pay into the USF at accurate levels, which will, in turn, allow the company to use this revenue to maintain and grow its existing business. The FCC has an interest in ensuring the competition is preserved, particularly as it relates to affordable telecommunications services to rural underserved communities.

***C. Ambess Has Taken Measures to Ensure Correct Filings in the Future***

Ambess has put in place measures specifically designed to prevent such filing errors from occurring in the future. Specifically, Ambess has placed an officer-level employee with a financial reporting background in charge of compliance matters. This officer has set a strict deadline so that all filings are prepared well in advance and are available for internal review. Moreover, all filings will

be reviewed by a minimum of two Ambess personnel before being submitted to USAC. By taking these steps, Ambess believes it is taking proactive steps to ensure correct and timely filings in all future filings to USAC.

#### **V. THE ADVENTURE DECISION COMPELS A DECISION IN AMBESS' FAVOR**

The facts presented in this case are strikingly similar to the Wireline Competition Bureau's recent *Adventure* decision.<sup>25</sup> In that case, the Bureau granted Adventure's request to waive the 45-day revising filing window, and directed USAC to accept Adventure's corrected FCC Form 499-Q. Adventure reported its total company revenues, which included access and other revenues not subject to Universal Service Fund contribution, rather than its end-user revenues.<sup>26</sup> Adventure's filing error resulted in its USF contribution obligation increasing from \$4,700 per month to \$91,800 per month, nearly 20 times its actual obligation.<sup>27</sup> The Bureau noted that, absent a waiver of the 45-day filing revision window, Adventure will have overpaid by approximately \$261,000 for the first quarter of 2008, but will not be reimbursed for the overbilled payments until the third quarter of 2009, after it files its FCC Form 499-A in April 2009.<sup>28</sup> The Bureau further noted that Adventure had put in place measures to ensure that such a filing error will not occur in the future.<sup>29</sup>

The Bureau found that Adventure had demonstrated that "strict enforcement of the filing deadline would disproportionately penalize [the carrier] when considered in light of its actions to remedy the error."<sup>30</sup> Upon noting that contributors are made whole for any filing errors though the

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<sup>25</sup> See *Adventure Order*, *supra* note 1.

<sup>26</sup> *Id.* at ¶¶ 1-2.

<sup>27</sup> *Id.* at ¶ 2.

<sup>28</sup> *Id.* at ¶ 5.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at ¶ 6.

annual true-up process, the Bureau found that USAC would not issue Aventure a refund based on its erroneously-filed FCC Form 499-Q until approximately July 2009 – nearly 15 months after the report had been filed.<sup>31</sup> On this basis, the Bureau found that good cause existed to grant Aventure a waiver of the 45-day revision deadline. Accordingly, the Bureau reversed USAC's decision to reject Aventure's January 15, 2008, FCC Form 499-Q filing, and directed USAC to treat it as timely for purposes of adjusting Aventure's USF contribution obligations.<sup>32</sup>

Similar to the facts presented in *Aventure*, the penalty to Ambess for its filing error is excessive. As a consequence of its filing error, Ambess' direct USF payment obligations have increased from \$0 to over \$60,000 annually. In addition, Ambess is now required to pay into the Universal Service Fund twice: through payments to its wholesale carrier and through payments directly to USAC. This result disproportionately penalizes Ambess, especially when considered in light of Ambess' swift and reasonable actions to remedy its reporting error. Immediately upon learning of its reporting mistake, Ambess contacted USAC in an attempt to correct the error. Moreover, Ambess filed an appeal asking USAC to reconsider its decision to reject Ambess' revised 499-Q. It is in the public interest to grant Ambess' Petition for Waiver and to accept the corrections made in Ambess' revised FCC Form 499-Q.

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at ¶ 7.

## **VI. CONCLUSION**

For the foregoing reasons, Ambess respectfully requests that the Commission direct USAC to disregard Ambess' erroneously-filed FCC Form 499-A, and to reverse any fees, penalties, assessments, or charges associated with this worksheet, which should not have been filed in the first instance. Alternatively, Ambess requests that the FCC grant, on an expedited basis, this Request for Review of the USAC Rejection Letter, and an effective waiver of USAC's 45-day revision deadline. Ambess submits that the public interest would be served by granting its request.

Respectfully submitted,

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Jonathan S. Marashlian  
Helein & Marashlian, LLC  
The *Comm*Law Group  
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Office Tel: 703-714-1313  
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**ATTACHMENT A**

**FCC Form 499-Q Telecommunications Reporting Worksheet**

Quarterly Filing for Universal Service Contributors

>>> Please read instructions before completing <<<

Approval by OMB  
3060-0855

<b>Block 1: Contributor Identification Information</b>		101	Filer 499 ID	821772
102	Legal name of reporting entity	Ambess Enterprises, Inc.		
103	IRS employer identification number	25-1811208		
104	Name telecommunications provider is doing business as	Ambess Enterprises, Inc.		
105	Holding company [All affiliated companies should show same name here.]			
106	FCC Registration Number (FRN)	0006-7924-93		
107	Complete mailing address of reporting entity's corporate headquarters	Street 1 Street 2 Street 3	1103 E Walton Ave   City Altoona St PA Zip 16801	Country

<b>Block 2: Contact Information</b>	
108	Person who completed this worksheet
109	Telephone number of this person
110	Fax number of this person
111	Email of this person
112	Billing address and billing contact person: [Bills for Universal Service contributions will be sent to this address.]

First Pamela MI S Last Nelson  
 ( 814 ) - 941-8600 ext  
 ( 814 ) - 941-8514  
 pnelson@ambess.com  
 Street1 1103 E Walton Ave City Altoona First Pamela Last Nelson  
 Street2 St PA Zip 16801 Ph. 814 941-8600 Ext  
 Street3 E-Mail pnelson@ambess.com FAX 814 941-8514

<b>Block 3: Contributor Historical and Projected Revenue Information</b>																													
113	Year of historical revenue information																												
114	Indicate which quarterly filing this represents																												
Filing due <input checked="" type="checkbox"/> February 1 <input type="checkbox"/> May 1 <input type="checkbox"/> August 1 <input type="checkbox"/> November 1																													
Historical revenues for October 1 - December 31 (prior year) January 1 - March 31 April 1 - June 30 July 1 - September 30																													
Projected revenues for April 1 - June 30 July 1 - September 30 October 1 - December 31 January 1 - March 31 (following calendar year)																													
Historical billed revenues with no allowance or deductions for uncollectibles. See instructions.																													
<table border="1"> <thead> <tr> <th></th> <th>Total Revenues (a)</th> <th>Interstate Revenues (b)</th> <th>International Revenues (c)</th> </tr> </thead> <tbody> <tr> <td>115 Telecommunications provided to other universal service contributors for resale as telecommunications or as interconnected VoIP</td> <td align="right">\$0.00</td> <td align="right">\$0.00</td> <td align="right">\$0.00</td> </tr> <tr> <td>116 End-user telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues</td> <td align="right">\$102,137.00</td> <td align="right">\$12,256.44</td> <td align="right">\$89,880.56</td> </tr> <tr> <td>117 All other goods and services</td> <td align="right">\$0.00</td> <td align="center" colspan="2">Column (b) and (c) not requested</td> </tr> <tr> <td>118 Gross-billed revenues from all sources [sum of above]</td> <td align="right">\$102,137.00</td> <td align="center" colspan="2">for Lines 117 and 118</td> </tr> <tr> <td>119 Projected gross-billed end-user interstate and international telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues</td> <td></td> <td align="right">\$51,000.00</td> <td align="right">\$374,000.00</td> </tr> <tr> <td>120 Projected collected end-user interstate and international telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues</td> <td></td> <td align="right">\$51,000.00</td> <td align="right">\$374,000.00</td> </tr> </tbody> </table>			Total Revenues (a)	Interstate Revenues (b)	International Revenues (c)	115 Telecommunications provided to other universal service contributors for resale as telecommunications or as interconnected VoIP	\$0.00	\$0.00	\$0.00	116 End-user telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues	\$102,137.00	\$12,256.44	\$89,880.56	117 All other goods and services	\$0.00	Column (b) and (c) not requested		118 Gross-billed revenues from all sources [sum of above]	\$102,137.00	for Lines 117 and 118		119 Projected gross-billed end-user interstate and international telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues		\$51,000.00	\$374,000.00	120 Projected collected end-user interstate and international telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues		\$51,000.00	\$374,000.00
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<b>Block 4: CERTIFICATION: to be signed by an officer of the reporting entity</b>	
121 I certify that the revenue data contained herein are privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the revenue information contained herein pursuant to sections 0.459, 52.17, 54.711 and 64.604 of the Commission's Rules.	
I certify that I am an officer of the above-named reporting entity, that I have examined the foregoing report and to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true, that said Worksheet is an accurate statement of the affairs of the above-named company for the quarter and that the projections of gross-billed and collected revenues represent a good-faith estimate based on company procedures and policies.	
122	Signature
123	Printed name of officer
124	Position with reporting entity
125	Email of officer    Required if available
126	Date
127	This filing is: <input checked="" type="checkbox"/> Original filing <input type="checkbox"/> Revised filing [revisions due within 45 days of original filing deadline]

Do not mail checks with this form. Send this form to: **Form 499 Data Collection Agent c/o USAC 2000 L Street, N.W. Suite 200 Washington DC, 20036**  
 For additional information regarding this worksheet contact: Telecommunications Reporting Worksheet Info: (888) 641-8722 or via e-mail: [Form499@universalservice.org](mailto:Form499@universalservice.org)

PERSONS WILLFULLY MAKING FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

Save time, avoid problems -- file electronically at

<http://forms.universalservice.org>

FCC Form 499-Q  
February 2007

## ATTACHMENT B

## FCC Form 499-Q Telecommunications Reporting Worksheet

Quarterly Filing for Universal Service Contributors

&gt;&gt;&gt; Please read instructions before completing &lt;&lt;&lt;

Approval by OMB  
3060-0855

## Block 1: Contributor Identification Information

101

Filer 499 ID

821772

102 Legal name of reporting entity

Ambess Enterprises, Inc

103 IRS employer identification number

251811208

104 Name telecommunications provider is doing business as

Ambess Enterprises, Inc

105 Holding company [All affiliated companies should show same name here.]

106 FCC Registration Number (FRN)

0006-7924-93

107 Complete mailing address of reporting entity's corporate headquarters

1103 E. WALTON AVE. Altoona PA

16602

## Block 2: Contact Information

108 Person who completed this worksheet

First PAMELA M S Last NELSON

109 Telephone number of this person

(814) 941-8600

110 Fax number of this person

(814) 941-8514

111 Email of this person

PNELSON@ambess.com

112 Billing address and billing contact person:  
[Bills for Universal Service contributions will be sent to this address.]PAMELA NELSON - 1103 E. WALTON AVE.  
Altoona PA 16602

## Block 3: Contributor Historical and Projected Revenue Information

113 Year of historical revenue information

2007

114 Indicate which  
quarterly filing  
this represents
☒ Filing due  
February 1  
☐ May 1  
☐ August 1  
☐ November 1

Historical revenues for

October 1 - December 31 (prior year)

January 1 - March 31

April 1 - June 30

July 1 - September 30

Projected revenues for

April 1 - June 30

July 1 - September 30

October 1 - December 31

January 1 - March 31 (following calendar year)

Historical billed revenues with no allowance or  
deductions for uncollectibles. See instructions.Total  
Revenues  
(a)Interstate  
Revenues  
(b)International  
Revenues  
(c)115 Telecommunications provided to other universal service  
contributors for resale as telecommunications or as  
interconnected VoIP116 End-user telecommunications revenues including any  
pass-through charges for universal service contributions,  
but excluding international-to-international revenues

117 All other goods and services

118 Gross-billed revenues from all sources [sum of above]

\$102,137.00

\$12,256.44

\$89,880.56

Column (b) and (c) not requested

for Lines 117 and 118

119 Projected gross-billed end-user interstate and international telecommunications  
revenues including any pass-through charges for universal service contributions, but  
excluding international-to-international revenues

\$12,240.00

\$89,760.00

120 Projected collected end-user interstate and international telecommunications  
revenues including any pass-through charges for universal service contributions, but  
excluding international-to-international revenues

\$11,811.60

\$86,618.40

## Block 4: CERTIFICATION: to be signed by an officer of the reporting entity

121 I certify that the revenue data contained herein are privileged and confidential and that public disclosure of such information  
would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the revenue  
information contained herein pursuant to sections 0.459, 52.17, 54.711 and 64.604 of the Commission's Rules. ☐I certify that I am an officer of the above-named reporting entity, that I have examined the foregoing report and to the best of my knowledge,  
information and belief, all statements of fact contained in this Worksheet are true, that said Worksheet is an accurate statement of the affairs of  
the above-named company for the quarter and that the projections of gross-billed and collected revenues represent a good-faith estimate  
based on company procedures and policies.

122 Signature

Pamela P. Nelson

123 Printed name of officer

First PAMELA M S Last NELSON

124 Position with reporting entity

President

125 Email of officer || Required if available ||

PNELSON@ambess.com

126 Date

2/1/08

127 This filing is:

☒

Original filing

☒

Revised filing (revisions due within 45 days of original filing deadline)

Do not mail checks with this form. Send this form to: Form 499 Data Collection Agent c/o USAC 2000 L Street, N.W. Suite 200 Washington DC, 20036  
For additional information regarding this worksheet contact: Telecommunications Reporting Worksheet Info: (888) 641-8722 or via e-mail: Form499@universalservice.org

PERSONS WILLFULLY MAKING FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

Save time, avoid problems - file electronically at

http://forms.universalservice.org

FCC Form 499-Q  
February 2007

**Audrey Glenn****Subject:** FW: Issue: February 2008 499Q - Filer ID 821772

-----Original Message-----

**From:** Form499 [mailto:form499@usac.org]**Sent:** Wednesday, March 26, 2008 9:47 AM**To:** Pam Nelson**Subject:** RE: Issue: February 2008 499Q - Filer ID 821772

Pam,

Unfortunately we will not be able to accept a filing that will lower the contribution base if it is received after the 45 calendar day window to provide revisions. Here is an excerpt from the instructions to the Form 499Q that explains this point. If you would like to file the revision and after it is rejected you may file an appeal. Here is a link to that appeal process.

<http://www.universalservice.org/fund-administration/contributors/file-appeal/>

*"Line 127 provides check boxes to show whether the Worksheet is the original filing or a revised filing for the quarter. A contributor must file a revised 499-Q Worksheet if it discovers an error in the data that it reports, i.e., if the filer discovers that it omitted or misclassified a major category of revenue. However, revised filings must be made within 45 calendar days of the original filing date. In general, the historical revenues contained in the quarterly filings will be based on unaudited books from a point in time and the projections will represent the filer's expectations as of a point in time. Contributors need not file revisions to the FCC Form 499-Q as a result of ordinary accounting adjustments such as out-of-period adjustments. Revenue information from the FCC Form 499-A will be used to ensure that contributions for the whole year are based on all subject revenues for the year."*

I'm also including information from the 499Q instructions that detail how to fill out lines 119 and 120.

*"5. Projected gross billed end-user interstate and international revenues*

*The projection quarter is the calendar quarter that starts two months after the filing date and finishes five months after the filing date. Line 119 should contain projected gross-billed end-user interstate and international revenues, including any pass-through charges for federal universal service contributions. These amounts should be the amounts that the filer anticipates reporting on Line 116, column (b) and column (c), in the FCC Form 499-Q filing due six months after the present filing date. In order to estimate these amounts, the filer could review the amounts they are reporting on Line 116 in the instant filing and amounts reported in recent filings. In addition, filers could take into account general business conditions, new contracts covering the projection period, pricing trends, marketing programs, expansion plans, and other relevant information. Filers must develop good faith projections based on company procedures and policies. If the filer anticipates that revenues are as likely to increase as decrease, then it may copy the historic values from Line 116 to use as its projections for Line 119 or it could develop projections by trending historic values from previous quarterly filings. Filers need not make projections for Line 119 column (a).*

*6. Projected collected end-user interstate and international revenues*

*Line 120 should show the interstate and international revenues that the filer anticipates collecting from customers during the projection quarter. For this purpose "collected end-user" revenues refers to gross-billed end-user interstate and international telecommunications revenues, including any pass-through charges for federal universal service contributions, less estimated uncollectibles.<sup>32</sup> We define uncollectibles as the percentage of interstate and international telecommunications revenues that the contributor anticipates will not be collected from end-user*

<sup>30</sup> CPE Bundling Order, 16 FCC Red 7418.

<sup>31</sup> See Regulation of Prepaid Calling Card Services, WC Docket No. 05-68, Declaratory Ruling, Report and Order, 21 FCC Red 7290, 7298, para. 22 (2006).

<sup>32</sup> Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of

customers. This percentage should be calculated in accordance with Generally Accepted Accounting Principles.<sup>33</sup> Thus, uncollectibles should represent the portion of gross billed revenues that the contributor reasonably expects will not be collected. Filers that use the accrual method of accounting should use the percentage of billed revenues that they recognize currently as a reserve for uncollectibles in their books of accounts. Filers that use the cash method of accounting should base this percentage on a comparison of actual collections and billed revenues, with the periods chosen to allow for the average delay between when services are billed and when payments are received. The amounts shown on Line 120 should be the amounts on Line 119 reduced by the percentage of uncollectibles.

Filers will be billed based on the amounts reported on Line 120. Any revisions to these amounts must be filed within 45 calendar days. No adjustments to billings will be made during the quarter to reflect actual levels of billed service and actual collection rates. The Administrator will use the actual revenue data provided by contributors on the FCC Form 499-A to perform annual true-ups to the quarterly projected revenue data submitted by contributors during the prior calendar year.<sup>34</sup> As necessary, the administrator will then refund or collect from contributors any over-payments or under-payments. If the combined quarterly projected revenues reported by a contributor are greater than those reported on its annual revenue report (Form 499-A), then a refund will be provided to the contributor based on an average of the two lowest contribution factors for the year. If the combined quarterly revenues reported by a contributor are less than those reported on its annual revenue report (Form 499-A), then the administrator will collect the difference from the contributor using an average of the two highest contribution factors from that year."

---

**From:** Pam Nelson [mailto:pnelson@ambess.com]

**Sent:** Tuesday, March 25, 2008 7:19 PM

**To:** Form499

**Subject:** RE: Issue: February 2008 499Q - Filer ID 821772

The 499Q line 119 and 120 does not indicate that the revenues are based on the next quarter. The numbers we submitted were based on an entire year. This will create a very large increase in the contribution base.

I apologize for taking so long to discover, I have been out with pneumonia for over two weeks.

Can I please resubmit the correct numbers?

Thank you,

Pam



---

**Pamela S. Nelson / President**

**Ambess Enterprises, Inc.**

**814-941-8600 Office**

**814-941-8514 Fax**

**Confidentiality Notice:**

This communication constitutes an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. Section 2510, and its disclosure is strictly limited to the recipient intended by the sender of this message. This transmission, and any attachments, may contain privileged and/or confidential information. If you are not the intended recipient, any disclosure, copying, distribution, dissemination or use of any of the information contained in or attached to this transmission is STRICTLY



PROHIBITED and may be unlawful. Please contact the sender by return e-mail and destroy the original transmission and its attachments, any copies or printouts of this communication without reading or saving them in any manner.

-----Original Message-----

**From:** Form499 [mailto:form499@usac.org]  
**Sent:** Tuesday, March 25, 2008 3:50 PM  
**To:** Pam Nelson  
**Subject:** RE: Issue: February 2008 499Q - Filer ID 821772

Pam,  
You should file a revision to the form 499Q, please be aware you are past the revision deadline and any form received that will reduce the contribution base will be rejected.

Thank you,  
USAC

---

**From:** Pam Nelson [mailto:pnelson@ambess.com]  
**Sent:** Monday, March 24, 2008 5:54 PM  
**To:** Form499  
**Subject:** RE: Issue: February 2008 499Q - Filer ID 821772

I have determined the issue/mistake I made.....how should I correct the form?



---

**Pamela S. Nelson / President**  
**Ambess Enterprises, Inc.**  
**814-941-8600 Office**  
**814-941-8514 Fax**

**Confidentiality Notice:**

This communication constitutes an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. Section 2510, and its disclosure is strictly limited to the recipient intended by the sender of this message. This transmission, and any attachments, may contain privileged and/or confidential information. If you are not the intended recipient, any disclosure, copying, distribution, dissemination or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED and may be unlawful. Please contact the sender by return e-mail and destroy the original transmission and its attachments, any copies or printouts of this communication without reading or saving them in any manner.

-----Original Message-----

**From:** Form499 [mailto:form499@usac.org]  
**Sent:** Monday, February 18, 2008 4:09 PM  
**To:** pnelson@ambess.com  
**Subject:** Issue: February 2008 499Q - Filer ID 821772

Dear Pamela:

Thank you for submitting the February 2008 499Q for 821772 - Ambess Enterprises, Inc.. USAC has reviewed the filing and the large increase from revenue reported on line 116 "End-user telecommunications revenue" to revenue reported on line 119 "Projected gross collected revenue" does not seem correct. USAC does not want to incorrectly bill your account, so if you could please double check your filing and verify that these revenue figures are correct it would be greatly appreciated. You can respond to this email or contact USAC customer service at 888-641-8722.

---

119 and 120 should be reported as follows:

Line 119 Projected Gross Billed End-User Interstate and International Revenues.

The revenue numbers reported on line 119 are the company's forecast of revenues reported on line 116 (end-user telecommunication revenues) for the next quarter.

Line 120 Projected Collected End-User Interstate and International Revenues.

The revenue dollars reported on line 120 is a forecast of how much of line 119 it will eventually collect.

---

Sincerely,

USAC

(888) 641-8722 Option2, Option 1

E-Mail: [form499@universalservice.org](mailto:form499@universalservice.org)

ATTACHMENT D

Altoona, PA 16602

Universal Services Administrative Company  
Billing, Collections, and Disbursements  
2000 L. Street, NW. Suite 200  
Washington, DC 20036

**Subject:** 499Q reissue rejection

**May 8, 2008**

Re: File 499 ID 821772  
Amended 4<sup>th</sup> Quarter 499Q

*Dear Reviewing Official:*

Regretfully, I find it necessary to draft this letter regarding the billing of inv. # UBD10000299329 in the amount of: \$14,382.56.

My business realized that an error had been made in our 2007 4<sup>th</sup> Quarter filing of the 499Q. For your review, we've attached an amended return, which does correct the error contained within "Projected Revenue" as annotated on lines 119 and 120.

Inadvertently, our total *projected company annual revenue* was listed on these lines, instead of our **Quarterly Projected Billed USF Revenues**. Appropriately, as we discovered that the 499Q was filed in error, Ambess resubmitted the amended filing. Although originally filed within time specifications...the amended filing arrived *after* the specified 45 days.

Since the policy has been to allow 45 days in which to amend a return (after which the original is filed), Ambess is now left with only the appeal process in which to hopefully rectify our oversight.

The revenues which were filed are grossly in error. This is amplified further as we are a de minimis filer. As such, this places us in a direct contributor status. Given the current calculations filed on our 499A in April, you will note that we *remain* in the status of a de minimis filer. As such, we now respectfully request that our amended return be accepted accordingly, and finally, that our account be adjusted to the correct filing status. Please note that we continue to pay USF fees accordingly through our provider based on Ambess' de minimis status.

Respectfully, I ask that you please consider the significant hardship-impact that this matter will place on our cash flow ability; this ability is pivotal in our small business arena not to mention in today's stretched economy. Without your understanding and financial relief regarding this matter, Ambess will be placed in a position where we can not render payment. This goes counter to every personal and business ethic that I possess. Again...I desperately request your help.

Finally, as the entity ultimately responsible for Ambess' actions, I wish to personally apologize for the above matter. Equally, I wish to thank you in advance for your time and effort regarding this issue.

Should there be any questions or additional concerns, I remain immediately available to you via my office @ (814) 941-8600 or cell (814) 329-8600,

Very Sincerely,

Pamela S. Nelson, President  
AEI



Universal Service Administrative Company

*Administrator's Decision on Contributor Appeal*

*By Email and Certified Mail*

*Confidential – Not for Public  
Inspection*

October 23, 2008

Pamela S. Nelson  
President  
Ambess Enterprises, Inc.  
1103 East Walton Avenue  
Altoona, PA 16602

Re: Ambess Enterprises, Inc. (Filer ID # 821772)  
Letter of Appeal dated May 14, 2008

Dear Ms. Nelson:

The Universal Service Administrative Company (USAC) has completed an evaluation of your appeal submitted on behalf of Ambess Enterprises, Inc. (Ambess) dated May 14, 2008. The appeal requests acceptance of a late-filed revision to Ambess's February 2008 FCC Form 499-Q (Form 499-Q) and asserts the company qualifies as *de minimis*.<sup>1</sup> As discussed in more detail below, USAC hereby denies the appeal.

Decision on Appeal: Denied

Federal Communications Commission (FCC) regulations require telecommunications carriers to file an annual FCC Form 499-A. In addition, carriers are also required to file quarterly FCC Form 499-Qs, unless they meet the *de minimis* exemption.<sup>2</sup> USAC relies on projected revenue for the upcoming quarter reported on the Form 499-Q to bill contributors and on the annual Form 499-A to reconcile billings for the previous year as projected on the Form 499-Qs. *See generally*, 47 C.F.R. Part 54.

<sup>1</sup> See Ambess Letter of Appeal dated May 14, 2008.

<sup>2</sup> See 47 C.F.R. § 54.708. ("If a contributor's contribution to universal service in any given year is less than \$10,000 that contributor will not be required to submit a contribution or Telecommunications Reporting Worksheet for that year unless it is required to do so to by our rules governing Telecommunications Relay Service (47 CFR 64.601 et seq. of this chapter), numbering administration (47 CFR 52.1 et seq. of this chapter), or shared costs of local number portability (47 CFR 52.21 et seq. of this chapter).")

The FCC requires Form 499-Qs to be filed on the first business day of the following months: November, February, May and August. The November Form 499-Q is used to determine a company's monthly Universal Service Fund (USF) obligation during the first calendar quarter of the next year, the February Form 499-Q is used to determine a company's monthly USF contribution obligation for the second quarter of the calendar year, the May Form 499-Q is used to determine a company's monthly USF contribution obligation for the third quarter of the calendar year and the August Form 499-Q is used to determine a company's monthly USF contribution obligation for the fourth quarter of the calendar year.<sup>3</sup>

The FCC has noted timely filing of the FCC Form 499 is necessary to enable USAC to timely make its filings, which the Commission relies upon in order to determine the quarterly contribution factor.<sup>4</sup> The FCC recently explained that it established a 45-day revision window to give contributors an opportunity to revise their quarterly forms while adequately maintaining appropriate USF funding in a given quarter.<sup>5</sup> USAC does not have the authority to waive the FCC-established 45-day revision deadline.

The February 2008 Form 499-Q, which reported projected revenue for second quarter 2008, had a due date of February 1, 2008 and a 45-day revision deadline of March 17, 2008. Ambess filed its original February Form 499-Q on February 11, 2008. USAC processed this form. Ambess filed a revision to the form on March 28, 2008, after the 45-day revision deadline had expired. As required by FCC rules,<sup>6</sup> USAC relied on revenue provided by Ambess on its original February Form 499-Q to calculate billings that posted to Ambess's April, May and June 2008 invoices.

Ambess's original February 2008 Form 499-Q reported projected gross billed and projected collected interstate revenue of \$51,000.00 and international revenue of \$374,000.00. As a courtesy, USAC notified Ambess on February 18, 2008 of a significant increase in revenue reported on the February Form 499-Q. This information should have alerted Ambess that a review of its February 1 filing would have been prudent given there was sufficient time to revise the filing prior to the March 17, revision

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<sup>3</sup> See FCC Order 01-85.

<sup>4</sup> *In the Matter of Request for Review by Atlantic Digital, Inc. of Decision of Universal Service Administrator*, CC Docket No. 96-45, DA 05-520, Order, 20 FCC Rcd. 4224, 4225-26, ¶¶ 3, 5 (2005) (*Atlantic Digital*).

<sup>5</sup> See *Federal-State Joint Board on Universal Service, Request for Review by: ABS-CBN Telecom North America, Incorporated of Decision of Universal Service Administrator; Southwest Communications, Inc. of Decision of Universal Service Administrator; and Trans National Communications International, Inc., Decision of Universal Service Administrator*, CC Docket Nos. 96-45, 2007 WL 784322, DA-07-1276 (2007) (*USF Reconciliation Process Order*), ¶ 2 ("Beginning in 2003, contributors have had the opportunity to correct their quarterly filings up to 45 days after the due date of each FCC Form 499-Q filing. In addition, all filers must submit an annual Telecommunications Reporting Worksheet (FCC Form 499-A), which contains the filer's actual revenues from the previous calendar year. To the extent that contributors have under- or overestimated their revenue information and have paid too little or too much, the FCC Form 499-A is used to true-up universal service billings and payments.").

<sup>6</sup> See 47 C.F.R. § 54.709 (a).

Pamela S. Nelson  
Ambess Enterprises, Inc.  
October 23, 2008  
Page 3 of 4

deadline. On March 24, 2008 Ambess acknowledged the reporting error but did not timely file a revised form.

USAC wishes to advise Ambess that it will be required to file a 2009 FCC Form 499-A to report 2008 revenue. USAC will rely on the annual revenue reported on the 2009 Form 499-A to review Ambess's 2008 USF contribution obligation, including the April, May and June 2008 billings at issue in the appeal. Assuming but not concluding, that Ambess's billings should be adjusted, Ambess will receive adjustments or credits, as appropriate beginning in July 2009.

Because Ambess did not file a revised February Form 499-Q in advance of the 45-day deadline of March 17, 2008, USAC is unable to revise Ambess's account at this time. Accordingly, Ambess's appeal is denied.

#### Pay and Dispute Policy

The appeal asserts *de minimis* status and states the February Form 499-Q was Ambess's first quarterly filing.<sup>7</sup> As discussed herein, USAC records indicate that Ambess did not qualify as *de minimis* based on revenue reported on its February Form 499-Q and was accordingly assessed \$46,234.72 during April, May, and June 2008.

In addition, Ambess filed an April 2008 Form 499-A on April 1, 2008 reporting annual 2007 revenue and was assessed upward adjustments of \$15,465.81 which posted during July, August, and September 2008 relating to its 2007 USF obligation. Because Ambess filed a revised 2008 Form 499-A on August 7, 2008, USAC relied on revenue reported on the revised form in order to recalculate Ambess's 2007 annual reconciliation and posted credits of \$5,155.27 during October 2008. In addition, credits of \$5,155.27 will post during November, and again in December 2008. Any late fees and penalties assessed on unpaid balances will remain on the account.

On May 19, 2008 Ambess submitted a payment of \$1,500.00. Because Ambess did not pay its balance due in full it was assessed late fees and penalties of \$2,241.48 which posted in July, August, September and October 2008.<sup>8</sup> USAC wishes to advise Ambess that it will continue to receive late fees and penalties until its account is paid in full.

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<sup>7</sup> USAC records indicate Ambess filed a November 2007 Form 499-Q on October 16, 2007, which demonstrated *de minimis* status. USAC was advised during a telephone conversation with you that a third party filed the November Form 499-Q and the February Form 499-Q was the first Form 499-Q filed by you.

<sup>8</sup> See *Debt Collection Improvement Act of 1996*, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

Pamela S. Nelson  
Ambess Enterprises, Inc.  
October 23, 2008  
Page 4 of 4

It is USAC's policy to enforce any late payment fees associated with unpaid balances. It is the responsibility of the contributor to file correct revenue so that USAC may accurately assess USF contribution obligations. Failure to pay USF contribution amounts when due will result in late charges being assessed on the amount outstanding.

The "Frequently Asked Questions" section of USAC's website provides guidance that specifically advises contributors that intend to file revisions to pay charges or risk receiving late payment fees. Further, the USAC website explains that USAC must rely on the contributor to deliver accurate information and that billings are based on the revenue as reported. The USAC website explains that late payment fees will not be waived unless the dispute is determined to be the result of a USAC error.<sup>9</sup>

If you wish to further appeal this decision, you may file an appeal with the FCC. Detailed instructions for filing appeals are available at:

<http://www.universalservice.org/fund-administration/contributors/file-appeal>

Sincerely,

USAC

cc: Regina Dorsey, FCC Office of Managing Director  
Hillary DeNigro, FCC Enforcement Bureau  
Trent Harkrader, FCC Enforcement Bureau  
Greg Guice, FCC Wireline Competition Bureau

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<sup>9</sup> See USAC website section titled "Paying USAC Bill during Appeal Process" at: <http://www.usac.org/fund-administration/contributors/file-appeal/>.



703-714-1330



ATTACHMENT F

Universal Service Administrative Company  
Collections Department  
For billing inquiries call (888) 641-8722

November 05, 2008

Ambess Enterprises, Inc.  
Pamela Nelson  
1103 E Walton Ave.  
Altoona, PA 16601

Dear Contributor,

Our records indicate that as of 10/31/2008, your account (Filer 499 ID 821772) is over 60 days past due. This is your third and final past due notice from the Universal Service Administrative Company (USAC). The portion of your account balance that is now past due totals \$45,678.56.

**THE FOLLOWING PROVISIONS CONTAIN IMPORTANT INFORMATION AND A  
DESCRIPTION OF LEGAL RIGHTS, OBLIGATIONS, AND OPPORTUNITIES:  
THIRD NOTICE-DELINQUENT ACCOUNT**

1. Debtor is cautioned that its continued failure to make the demanded payment will result in further sanctions, including, but not limited to, the initiation of proceedings to recover the outstanding debt, together with any applicable administrative charges, penalties, and interest pursuant to the provisions of the Debt Collection Act of 1982 (Public Law 97-365) and the Debt Collection Improvement Act of 1996 (Public Law 104-134), as amended (the DCIA), as set forth below.

2. If we do not receive full payment within 30 days from the date of this letter (Demand Date), pursuant to the DCIA, we will transfer the full amount of the outstanding debt to the Federal Communications Commission (Commission or FCC) for debt collection. The FCC has determined that the funds are owed to the United States pursuant to the provisions of 31 USC § 3701 and 47 USC § 254. Because the unpaid amount is a debt owed to the United States, we remind you again that we are required by the DCIA to impose interest and to inform you what may happen if you do not pay the full outstanding debt. Under the DCIA, the United States will charge interest from the date of the first notice, you will be required to pay the administrative costs of processing and handling a delinquent debt as set by the Treasury (currently 18% of the debt), and you will be charged an additional penalty of 6% a year for any part of the debt that is more than 90 days past due. Interest on the outstanding debt (DCIA Interest) will be assessed at the published investment rate for the Treasury tax and loan accounts (Treasury Current Value of Funds Rate). These requirements are set out at 31 U.S.C. § 3717.

3. When we transfer the Debt, you may be subject to other administrative proceedings. Your failure to pay the Debt may be reported to credit bureaus (see 31 USC § 3711(e)), the Debt will be considered for administrative offset (see 31 USC § 3716), the Debt may be further transferred to collection agencies (see 31 USC §§ 3711 & 3718), and also the